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CONCORD, N.H.

1953

January 29

Harold Cheney, Director,  
Division of Purchase and Property

Dear Mr. Cheney:

You have inquired whether you are empowered to confine the purchase of any given lot of seeds to a single source, provided that source is believed to be reputable and its products satisfactory. Your inquiry is generated by your experience that the purchase of flower, field and garden seeds cannot be made by competitive bidding with any assurance that the results will be satisfactory and that it is in the interests of state institutions to procure seeds from companies whose seeds are of high quality rather than low in price. Mr. Elgin Kibby, State Farm Supervisor, concurs in your opinion.

You have also promulgated rules and regulations relating to the procedure of your office providing that the Director of Purchase and Property shall retain full right to exercise his judgment in respect to the kinds, brands and makes in the purchase of any equipment, materials and supplies. You have further advised that it has been your administrative practice for several years to procure certain brands of supplies without the requirement of competitive bidding.

It is my opinion that said seeds may be procured from a single source, provided that you have first determined to be the fact, (a) that the seeds constitute a brand; (b) that these particular seeds are required to serve the interests of state institutions; and (c) that these seeds have a fixed market price at all sources available to the state. (Par. (e) s. 5, c. 14-A, R.L., as inserted by c. 21, Laws of 1943 as amended by s. 1, c. 227, Laws of 1949, and as amended by s. 1, c. 53, Laws of 1951.) This statutory provision controls any rules and regulations which may be in conflict with it.

Very truly yours,

John H. Nassikas  
Deputy Attorney General

JHN:HP